IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 2468 of 2004

Between:

Pasupleti Malyadri, S/o.Kondaiah,
R/o.Thurimerla Village, Gandavaram Mandal,
Nellore Dist.

..... PETITIONER

AND

1 The General Manager, The Nellore Dist.Cooperative Central Bank Ltd., Trunk Road, Nellore, Nellore Dist.
2 The Divisional Cooperative officer, Kavali, Nellore Dist.
3 The Person-in-charge, Modegunta Primary Agricultural Cooperative Credit Society, Kovur Mandal, Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus, declaring the action of the respondent in not considering the case of the petitioner for reinstatement into service and not passing any orders on the representation dated 28-7-2003 is arbitrary, unreasonable and consequently direct the respondents to consider the case of the petitioner for reinstatement into service to the post of Secretary, pursuant to the Judgment dated 4-6-2003 made in Crl.A.No.96/1998 on the file of the court of the III Addl.District & Sessions, Judge (Fast Track court), Nellore and also direct the respondent to pay all consequential benefits by treating the out of period duty as duty period.

Counsel for the Petitioner:MR.M.SHIVA KUMAR

Counsel for the Respondent No.1: MR.K.MURALIDHAR REDDY

Counsel for the respondent Nos.2 and 3: Govt. Pleader for co-operation.

The Court made the following :

O R D E R:

The petitioner was appointed as Deputy Secretary in the 3rd respondent-Society by the selection committee vide proceedings No. 702/77-8/APC, dated 29-03-1978. While so, the 1st respondent-General Manager received a report dated 06-12-1983, from the Deputy Registar/Officer on Special, Nellore District Co-Operative Central Bank, Nellore stating that the petitioner committed several irregularities and misappropriated the funds of the society. It is stated that basing on the said report, the 1st respondent framed as many as five charges against the petitioner and issued a charge memo dated 14-03-1984, directing him to submit his explanation. Pursuant thereon, the 1st respondent appointed an Enquiry Officer, who is none other than the then Manager of Co-operative Central Bank, Nellore, by order dated 22-12-1984, to conduct enquiry on the charges framed against the petitioner. It is also stated that the Enquiry Officer issued a notice to the petitioner directing him to appear for the enquiry as well as to file a written statement answering each charge framed against him. At this juncture it is pertinent to note that the petitioner requested the Enquiry Officer to postpone the enquiry in view of his ill-health and multiple injuries received in an accident and thereafter, he was not in contact with the Enquiry Officer. In the meanwhile, the Enquiry Officer proceeded with the enquiry and submitted his report dated 30-12-1985, to the 1st respondent holding that the petitioner was made exparte and the charges made against him was proved. Basing on the enquiry report dated 30-12-1985, the 1st respondent issued a show cause notice dated 02-05-1987 to the petitioner, as to why proposed punishment should not be inflicted on him. It is stated that even though, on receipt of the said show cause notice, the petitioner was not submitted his explanation and that as

there was no response on the part of the petitioner, in the meanwhile, the 1st respondent by order dated 29-09-1987, terminated the services of the petitioner with immediate effect. Pursuant to the same, the 1st respondent further proceeded against with the petitioner by lodging a criminal complaint before the Kovur Police Station, mentioning the allegations as per the charge memo dated 14-03-1984. After completion of investigation, the Station House Officer, Kovur charge sheeted the accused for the offences punishable under Sections 409 and 477(A) IPC, and the same was numbered as C.C.No.181 of 1989 on the file of the Addl.Judicial First Class Magistrate, Kovur. After full trial, the learned Magistrate, by Judgment dated 12-08-1998, found the petitioner/accused guilty for the offence punishable under Section 409 IPC and convicted him and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- in default suffer S.I. for six months. In so far as Section 477(A) IPC is concerned, he was acquitted. Aggrieved by the same, the petitioner preferred an appeal before the District Sessions Judge, Nellore in Crl.Appeal No.96 of 1998. The learned Judge, on reconsideration of the material available on record, set aside the conviction given by the trial Court under Section 409 IPC and accordingly, acquitted the petitioner-appellant. It is said that pursuant to the Judgment of the lower appellate Court dated 04-06-2003, the petitioner made a representation dated 28-07-2003 to the 1st respondent as well as to the District Co-Operative Officer, Nellore, requesting them to reconsider his case for reinstatement into service. The grievance of the petitioner is that even though he was acquitted before the lower appellate Court and made representations to the officials concerned, the 1st respondent did not take any steps on his representation dated 28-07-2003. Therefore, he filed this writ petition seeking a declaration that the action of the respondent in not passing any orders on his representation dated 28-07-2003 is illegal and arbitrary.

Heard both sides.

On perusal of the material available on record, it can be said that nowhere it is stated that the charges framed in the charge memo dated 14-03-1984, as well as in the criminal case filed against the petitioner are one and the same. However, it is for the 1st respondent to consider the said representation and pass appropriate orders in accordance with law.

Accordingly, the Writ Petition is disposed of with a direction to the 1st respondent to consider and dispose of the representation of the petitioner dated 28-07-2003, and pass appropriate orders in accordance with law within eight weeks from the date of receipt of a

copy of this order. No costs.

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05-08-2004

mjl/*

To

1 The General Manager, The Nellore Dist.Cooperative Central Bank Ltd., Trunk Road, Nellore, Nellore Dist.
2 The Divisional Cooperative officer, Kavali, Nellore Dist.
3 The Person-in-charge, Modegunta Primary Agricultural Cooperative Credit

Society, Kovur Mandal, Nellore Dist.

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